

MINUTES OF THE PLANNING COMMISSION MEETING OF MARCH 21, 2007 AT 6:00 P.M.
HELD IN THE COTTONWOOD HEIGHTS CITY COUNCIL CHAMBER.

MEMBERS PRESENT: Tom Bowen, Sue Ryser, Jerri Harwell, Gordon Nicholl, Amy Rosevear, Jim Keane, JoAnn Frost

MEMBERS EXCUSED: Doug Haymore, Geoff Armstrong

STAFF PRESENT: Planning Director Michael Black, Associate Planner Glenn Symes, Planning Intern Camille Petersen, Planning Coordinator Sherry McConkey

OTHERS PRESENT: Scott Rosevear, Jerome Gourley, Mark Whitlock, Scout Troop 706, Teresa Campbell, Shawn Campbell, Doug Shelby, Mike Allred, Rick Rose, Dave Clark, Frank Linthorst

Chair Bowen called the meeting to order.

1.0 PUBLIC COMMENT

1.1 No public comment was given.

2.0 PUBLIC HEARING – GENERAL PLAN AMENDMENT – HOG WALLOW

2.1 Mr. Symes explained that staff had received an application for a general plan amendment for property located at 3200 E. Big Cottonwood Canyon Road. The current zoning is R-1-8. This application has been denied previously by the County and City. Mr. Symes stated that staff is recommending denial of the application based on the concern that if the general plan amendment is granted the applicant would be eligible to apply for a zone change which could change the entire use of the property.

2.2 Keith Beisinger explained that the history of the property and the surrounding properties back to 1945. In 1947, Mary Johnson's family started a bar on this property and it has remained functioning since that time. Mr. Beisinger explained that the A.J. Dean property Walker property and the Hog Wallow property all about a residential zone, the difference is that the other properties have been allowed to change their zone to reflect the business they were conducting and his had been denied. The Hog Wallow should be allowed the same rights that all other property owners enjoy. Mr. Beisinger referenced a previous hearing held on June 15, 2005 in which the planning commission discussed the property to make a private club a conditional use and a motion was made to change the zone from A1 to NC (Neighborhood Commercial). Mr. Beisinger stated that the motion passed the planning commission. Since that time the only change has been the surrounding neighbors that moved in with the knowledge of a bar being in the neighborhood. Mr. Beisinger explained that he should have the same rights as other property owners and believes he is being singled out.

Mr. Black explained that the planning commission had passed the motion however; it was rejected by City Council.

2.3 Chair Bowen opened the public hearing.

2.4 Doug Shelby handed out photos of the properties surrounding the Hog Wallow PUB in 1927, and included a photo of the Wagon Wheel Saloon. Mr. Shelby stated he was sympathetic to Mr. Beisinger in that he cannot develop his own property due to the zoning. He stated that Mr. Beisinger should have the right to improve his property and that these residents moved in with the knowledge of the bar being where it is.

2.5 Dave Clark, Old Mill Estates Home Owners Association explained that a meeting of the association had taken place and all 35 members attending were opposed to the general plan amendment for the Hog Wallow PUB.

2.6 Ron Mills inquired about the intent of Mr. Beisinger if the general plan is changed and would he be asking for a zone change next.

Keith Beisinger explained that his intent is to hand the business over to his son and they intended to keep it as it is.

2.7 Judy Kilborn expressed concerns regarding; trash, traffic, and noise. Ms. Kilborn stated she is opposed to the proposed change.

Chair Bowen asked how this change would affect her if it is passed.

Judy Kilborn explained her concern is that the use will change the liquor license.

Keith Beisinger explained that he is licensed as a Class D club and the license would not change if this application is approved.

2.8 Chair Bowen closed the public hearing.

2.9 Mr. Symes explained the problem with the map for zoning. Staff has made it clear that changes can be made if he works with the City and the Board of Adjustments.

2.10 Ms. Frost explained that she has seen no change to the property and still sees it as a problem with noise, trash, and traffic.

2.11 Ms. Rosevear believes that this property should remain in its current status.

2.12 Mr. Black explained that several changes can be made without going through the Board of Adjustments; he cannot expand without applying for a variance through the Board of Adjustment.

- 2.13 Mr. Keane asked staff about the motion on June 2005

Mr. Black explained the meaning of the motion from the June 2005 meeting.

- 2.14 Mr. Nicholl stated that the Hog Wallow PUB was discussed in June 2005 and that Mr. Beisinger has appeared before the commission three times. Hog Wallow had been there prior to the residents living there and purchased their homes anyway. Mr. Nicholl expressed concern that Mr. Beisinger would need to go through additional meetings to make improvements. Mr. Nichol stated that he has a right to keep his business and that the complaints are still going to be there if the zone changes or not.

- 2.15 Chair Bowen asked staff if there were other options available to Mr. Beisinger to improve the business.

Mr. Black explained that a building permit can be applied for if he is not changing the square footage. If Mr. Beisinger added square footage he would need to go in front of the Board of Adjustment.

Mr. Topham explained that he would need additional time to research this and believes that if you increase square footage

- 2.16 Ms. Harwell what are the potential changes if this item was passed and an application for rezone is received.

Mr. Black stated that NC and RO would be the zones that could be applied for and went over the possible conditional uses allowed in those zones.

- 2.17 Ms. Frost expressed concern of parking.

Mr. Black stated that Mr. Beisinger would need to come into compliance with the new rules of parking if any changes are made.

- 2.18 Mr. Topham explained that any modification to the property that results in a larger size would need to go through the Board of Adjustments.

- 2.19 Chair Bowen stated his belief is that if a new application was received to add a bar to the area it would be denied

- 2.20 Mr. Nicholl expressed that Mr. Beisinger needs to have the ability to improve the property to enhance the use and satisfy some of the neighbors complaints. Mr. Nicholl explained that he is not in favor of adding square footage.

2.21 **MOTION:** Ms. Rosevear moved to deny the application Hog Wallow Pub based on the findings of the staff report. The motion was seconded by Mr. Keane.

2.22 Motion passed 6-1 with Mr. Nicholl opposed.

3.0 PUBLIC HEARING – ZONE CHANGE – FRANK LINTHORST

3.1 Mr. Symes is a request for a zone change from RR-1-21 to NC on February 21, 2007 at which time the planning commission asked the applicant to change the zone to RO. Staff is recommending approval.

3.2 Frank Linthorst expressed his concern of the RO zone and believed that NC is the best fit for the original intent of the application. His concerned was of the square footage calculations and asked if they can have that adjusted, would like to have a below grade floor,

3.3 Chair Bowen opened the public hearing.

3.4 Mike Allred asked about the 35 feet height

3.5 Chair Bowen closed the public hearing.

3.6 **MOTION:** Mr. Nicholl moved to recommend to the city council approval of the zone change to RO as recommended by staff. The motion was seconded by Ms. Ryser and passed unanimously on voice vote.

4.0 PUBLIC HEARING – AMENDMENTS TO TITLE 19 – WIRELESS TELECOMMUNICATIONS

4.1 Mr. Black explained this is a re-write of the Wireless Telecommunication ordinance.

4.2 Chair Bowen opened the public hearing.

4.3 Scott Rosevear, representing T-Mobile, explained that he has offered his services in helping to rewrite this ordinance. Regulation of wireless telecommunications is different then other. Mr. Rosevear stated that the Federal Telecommunications Act was created to protect the City and the providers. Mr. Rosevear mentioned some issues that he saw in the re-write and asked that the planning commission and staff take a look at it. He discussed several changes in the language of the code and believes that some of the items are arbitrary and should be removed from the code. Business license should not be required; this just creates another hoop to jump through.

4.4 Mr. Black explained that the changes in this ordinance are meant to open up the areas that can be used. This would also encourage co-locating.

- 4.5 Scott Rosevear had concerns about having to obtain a 3D visual simulation and believes it is unnecessary.

Mr. Black explained that the 3D generation is available for download from any architectural firm.

- 4.6 Mr. Topham asked if any other cities require a bond and if the companies have a blanket bond that they use to cover these types of applications.

- 4.7 Ms. Frost stated that the city wants to stay on top of this issue and needs to make sure that the city is covered.

- 4.8 Mark Whitlock, Development Manager for T-Mobile, Salt Lake City previously required a blanket bond.

- 4.9 Chair Bowen asked how is the city able to ensure that the towers that have become outdated be removed and not left for the cities to clean up.

- 4.10 Mr. Black explained that the content of this ordinance has been researched to the best staff ability and stated that engineers are used in several areas of the city, building, zoning, The City relies on experts to review the items that staff cannot answer that is independent of the company involved.

- 4.11 Mr. Whitlock discussed power poles and the heights restrictions

- 4.12 Ms. Ryser asked how many poles are in Cottonwood Heights that are owned by T-Mobile.

Mr. Whitlock stated that T-Mobile has 1 flagpole in the city and foresees 4 poles being added in the future.

- 4.13 Chair Bowen closed the public hearing.

- 4.14 Mr. Nicholl moved to recommend to the City Council the recommendations of staff and the modifications. The motion was seconded by Ms. Frost and passed unanimously on voice vote.

5.0 PUBLIC HEARING – AMENDMENTS TO TITLE 19 – SHORT TERM RENTALS

- 5.1 Mr. Black explained the proposed changes to the ordinance.

- 5.2 Chair Bowen opened the public hearing.

- 5.3 No public comment was given.

- 5.4 Chair Bowen closed the public hearing.

5.5 **MOTION:** Ms. Frost moved to recommend approval to the city council. Ms. Rosevear seconded and passed unanimously

6.0 **APPROVAL OF MINUTES**

6.1 **MOTION:** Ms. Rosevear moved to approve the minutes for February 21, 2007 with recommended changes. The motion was seconded by Ms. Frost and passed unanimously on voice vote.

Due to mechanical issues with the recording device, no audio is available for this meeting.

Meeting adjourned at 7:45 p.m.

Approved: 4-18-07 sm